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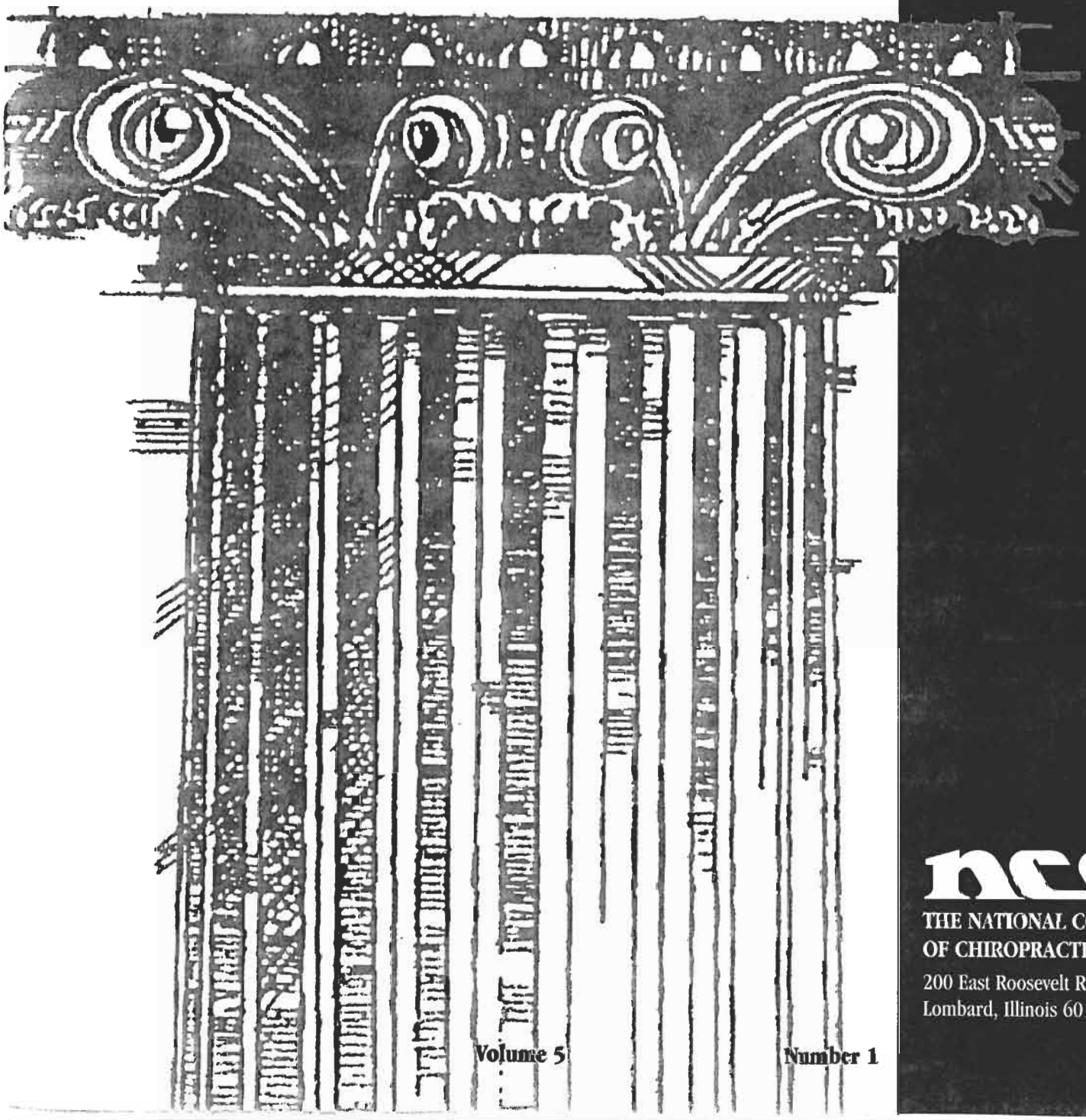

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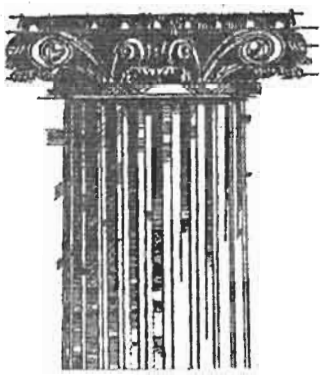

ROBERT B. JACKSON, D.C.[1]
Private Practice of Chiropractic

CALIFORNIA'S MEDICAL PRACTICE ACT: Chiropractors Amend Without Medical Opposition – 1967

After enactment of California's Medical Practice Act in 1876, the medical lobby reigned supreme over all matters of public health. They would stipulate through the years whom they would accept or reject into the healing community, and they defeated all attempts from non-medical groups to be included in separate practice acts.

Following a trilogy of catastrophic chiropractic events in state that came before Los Angeles County Courts, the medical lobby introduced a Bill before the Legislature, amending their Act, and changing a violation of their practice rules upon others to be a felony rather than a misdemeanor; this was aimed at destroying Chiropractic.

This paper discusses how the then California Chiropractic Association met the challenge, defeated the Bill, and in the following Session amended the Medical Practice Act without medical opposition.

Introduction:

> *"The question is," said Alice, "whether you can make words mean so many different things."*
>
> *"The question is," said Humpty-Dumpty, "which is to be the master...that's all." (1)*

This brief portion of their conversation back in 1872 demonstrates to this author how the language of the California Medical Practice Act of 1876, and as amended (2), and similar language in other state acts, personifies Humpty Dumpty's response.

Once enacted in California, the board of medical examiners and medical association would reign supreme over all matters of public health. They would exercise their influence within the Legislature, whom they would accept and when, as well as those to be rejected. They would oppose any new group attempting to create a separate practice act, and the legislative committees appear to have gone along with the recommendations, as shall be demonstrated.

Garnered by but a few, the osteopathic group in 1899 introduced into the legislature Senate Bill 477, establishing a separate Osteopathic Practice Act; the Bill never came out of Committee (3-6). This was repeated in 1901 (7,8) and 1907 (9); but an amendment to the Medical Practice Act did include the osteopath as the second type of certificate issued, allowing the practice of Osteopathy with body manipulation and birthing; drugs and surgery were prohibited as scope of practice (10). The Naturopath (ND) came onto the Legislative scene in 1905 with the introduction of two bills; another in 1909, which the Committee on Public Health & Quarantine never reported out; neither did the Committee on Medical Laws. Instead, an amendment to the Medical Practice Act placed the naturopath under the Medical Act, but without stipulating scope of practice (12). However, in 1911 the naturopath was amended out of the Medical Practice

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Act for new applicants, but did allow those already certificated to practice, because the Medical Board considered their practice above and beyond what was expected, and felt they were now invading the practice of medicine by performing birthing (13). This is not the last we shall see of the naturopath.

The Chiropractors came onto the Legislative scene in 1907 with Senate Bill 846, for a separate practice act; it was not passed by the Senate (14). Another attempt was made before the 1909 Session with two Bills, Assembly Bill 375, which died in the Committee on Medical Laws (15). This would be repeated in every biennial session of the Legislature up through 1921. However, starting with the 1907 amended Medical Practice Act, a third form of certificate could be issued beside the physician & surgeon and osteopath, for those practicing any other system or mode of treating the sick or afflicted. There is no evidence of any chiropractor ever making application or being granted one of these certificates; at that time, chiropractic philosophy could not tolerate being under any medical board. It would not be until the 1913 amended Medical Practice Act, when the osteopathic name was no longer included within the Medical Practice Act, that a new name appeared - Drugless Practitioner (DP) (10, p.253;16, p.725), which was where the Osteopath was now placed, because they were requesting full physician & surgeon practice rights.

The Medical Practice Act as amended in 1876 and 1878 contained the term manipulation as a form of therapy requiring regulation and license if used by any itinerant vendor; license fee - $100 per month (2, p.794;17, p.920); this was dropped in the 1901 amended version (18, p.63). As with other amendments to the Medical Practice Act, they were all done solely by and with the medical profession's consent and backing. No other group had ever caused an amendment to their act, and no group ever tried.

Definitions & Penalties

The 1876 version of the Medical Practice Act defines physician to be anyone who prescribes for the sick and uses M.D. after his name. Penalties for not being one of these included a fine of $50 to $500, and/or imprisonment in the county jail for 30-365 days (2, p.794). In 1901, physician was defined as one who treated diseases, injury or deformity in humans. Penalties were amended to $100-$500 fine, and/or imprisonment from 60-180 days, if found to be non-certificated and guilty (18, p.62-3). In 1911, three forms of certificates were to be issued: 1) to practice medicine & surgery, 2) to practice osteopathy and 3) to practice any other system or mode of treating the sick or afflicted (10, p.253). Penalty -

> *Section 13. Any person who shall practice or attempt to practice or advertise or hold himself out as practicing medicine or surgery, osteopathy, or any other system or mode of treating the sick or afflicted, in this state, without having, at the time of so doing, a valid, unrevoked certificate, as provided by this act, shall be guilty of a misdemeanor. Upon conviction shall be punished by a fine of $100-$500, or imprisoned for a term of not less than 60-180 days, or both fine and jail (10, p. 257-8).*

As mentioned, chiropractors, based upon their philosophy teachings, could never be under the practice control of the medical profession, so there is no record that any D.C.'s ever applied to be certificated under this category. The next amendments came in 1913, when only two forms of certificates would be issued - 1) physician & surgeon for the practice of medicine & surgery -

> *Authorize the holder thereof to use drugs or what are known as medicinal preparations in or upon human beings and to sever or penetrate the tissues of human beings and to use any and all other methods in the treatment of diseases, injuries, deformities, or other physical or mental conditions.*

2) drugless practitioner -

> *Authorizes the holder thereof to treat diseases, injuries, deformities, or other physical or mental conditions without the use of drugs or what are known as medicinal preparations and without in any manner severing or penetrating any of the tissues of human beings except the severing of the umbilical cord (19, p. 725).*

The penalty for violating any of the above, or for using the term doctor, Dr. or M.D., or for any unauthorized treating of any of the above methods, was a misdemeanor; punishable by a fine from $100-$600 and/or imprisonment in county jail for 60-180 days (19, p.734-5).

In the 1915 Session, the Act was again amended; three forms of certificates were provided - 1) physician & surgeon, with no changes in scope of practice, 2) drugless practitioner, with no changes in scope, 3) for the practice of chiropody, with a scope dealing with the feet, along with minor surgical procedures with anesthetics for same (20, p.187); and no changes in penalties from 1913 (20, p.199).

Enter Chiropractic

New faces appeared upon the Sacramento Legislative scene in 1913, that of Tullius F. Ratledge, D.C., founder

of the Ratledge System Chiropractic College in Los Angeles in 1911 (21), followed shortly thereafter by Charles Cale, N.D., D.C. who chartered the Los Angeles College of Chiropractic (22). Dr. Ratledge became the self-imposed lobbyist for the straight chiropractic movement, having claimed prior experience in Oklahoma with Dr. Willard Carver, and with Dr. Anna Foy in Kansas. His statements about chiropractic before the Senate Legislative Committee on Public Health & Quarantine inflamed the medical lobby, as it was apparent Dr. Ratledge had not approached the Board of Medical Examiners to ask for inclusion but was advocating a separate practice act. Thus, Dr. Ratledge's first chiropractic Bill, Senate Bill 430, was held from a floor vote by the Senate (23). Added to the fire, Dr. Ratledge operated a school that trained chiropractors, along with the Los Angeles Chiropractic College, and so he had to be stopped.

On November 6, 1914, Dr. Ratledge was arrested for practicing medicine without a license and brought before the Covina Justice Court, arraigned for trial, and released on $500 bail bond (24). On March 31, 1915, Dr. Ratledge's trial began in Los Angeles Superior Court, where he was found guilty as charged and sentenced to 90 days in county jail (25). His attorney appealed the verdict to the State Supreme Court, where on April 25, 1916, the high court affirmed the trial court verdict, thus remanding the good doctor to serve 90 days in county jail (26). Dr. Ratledge became one of the many chiropractic martyrs up through 1922 arrested for the practice of medicine without a license, for adjusting people's spine. Governor Johnson was interviewed on the matter. The Governor proposed that if Dr. Ratledge would apply to the Medical Board for a license, he would be pardoned. Dr. Ratledge refused (27); he held that adjusting the spine was not a treatment to the sick or afflicted. The courts held contrary opinions and prevailed.

Undaunted, upon his release from jail he returned to practice, but not in Los Angeles County; he went up to Santa Barbara and was not bothered by the physicians in the community (28).

Finally, in 1922, both *straight* and *mixer* groups headed by Drs. Ratledge and Cale joined forces, in a united attempt to get a separate chiropractic act, as all legislative attempts had been thwarted by medical opposition. This time a grass-roots effort at gathering voter signatures to qualify Proposition 16 to the November 7, 1922 Ballot was a success approved by the voters (29). Now, only the people could amend this act, and medical opposition would be finally out of the chiropractors' hair, or so our profession believed (30).

Serious Troubles Ahead

Soon after licenses were issued, a few of the brethren were arrested for practicing medicine without a license for, among other things, the following - birthing of pre and post natal care, the use of injectable medicines, of abortion, for advertising with 'Doctor' and not defining what kind, advertising treatment for sexual dysfunction and diseases, injecting anti-toxins for cancer treatment, etc. These led to a series of Appellate and State Supreme Court Decisions, making 'case law' binding upon the entire profession. Twenty-eight such cases from 1916-1966 went to Superior, Appellate and State Supreme Court, all involving the practice of medicine without a license. These cases made 'case law' in that they made a determination against chiropractic and the manner in which it practices in the State (31).

Few, if any of these cases were ever broadcast within the chiropractic community, because as the years went by, more D.C.'s were arrested and no one seemed to wonder why (32).

Exasperated by chiropractors and naturopaths wandering into the practice of medicine, the Medical Board and Association in 1937 amended the Medical Practice Act again, this time expanding the penalty section -

> *Section 2141. Practice, Attempt or Advertising Without a Certificate -*
>
> *Anyone who practices or attempts to practice or who advertises or holds himself out as practicing an system or mode of treating the sick or afflicted, in this state, or who diagnoses, treats, operates for, or prescribes for any ailment, blemish, deformity, disease, disfiguration, disorder, injury, or other mental or physical condition of any person, without having at the time of so doing a valid, unrevoked certificate as provided in this chapter, is guilty of a misdemeanor (33). (Underlined is amended language).*

Again, it looked as though the chiropractors and naturopaths had not read the Medical Practice Act as amended. The struggle between *'mixer'* and *'straight'* continued for a majority on the Board of Chiropractic Examiners (5 members), as this board was authorized to promulgate rules and regulations expressing what the scope of chiropractic practice was to be, based upon the Initiative Act as redefined by case law. An example - in 1956, the board promulgated Rule 333, to include natural birthing to be within scope, that students must participate in observing 2 birthings as part of their clinical training and that the college clinics could handle pre and post natal care of the mother and child (34).

On July 8, 1954, the Los Angeles College of Chiropractic held a special assembly of the student body, where the

new President of the California Chiropractic Association, Dr. Leo E. Montenegro spoke, expressing -

> *His aim...to instill in state members the desire to extend their practice to include broader methods an thereby take advantage of our law and lift this profession to a status of full recognition.*
>
> *He urged...every chiropractor, as a general practitioner to widen his field to include all methods taught in chiropractic colleges. When this was done, the days of court battles will be ended and full recognition will be extended to our profession (35).*

In 1956, Dr. Montenegro was appointed to the State Board (36), where he banded similar-minded disciples into a non-profit State organization - CHIROPRACTIC RESEARCH, EDUCATION AND ETHICS SOCIETY (CREES), which would have a profound adverse impact upon the entire chiropractic community in California in the days ahead.

Catastrophic Events

In 1961, a trilogy of catastrophic chiropractic events would come before Los Angeles Superior Courts; two initiated by the District Attorney, the other by CREES, that would infuriate not only the District Attorney's Office, but also the medical lobby, bringing into sharp focus Alice's conversation with Humpty-Dumpty (1).

FIRST: Julius Bernhardt, D.C., professor of obstetrics and gynecology at LACC, who had appeared before the Montenegro Board of Chiropractic Examiners to explain his natural child birthing methods as fashioned after the French physician, Dr. Lamaze (37). In the March 1958 CHIROGRAM of LACC, page 25, Dr. Bernhardt published an article on obstetrics, in which he said - *"Chiropractic teaches the avoidance of meddlesome obstetrics and the prevention of obstetrical accidents."* And, the board promulgated a new Rule 333, to include chiropractic natural birthing (34).

By 1960, Dr. Bernhardt had delivered several hundred babies, with no fetal or maternal accidents (death or injuries), in the clinic or at the mothers' homes. Then -

> *...on February 16, 1961, it happened. While attending a mother in her home along with 4 licensed D.C.'s from his postgraduate class in obstetrics and gynecology, an unforeseen accident occurred.*
>
> *From what appeared to be a normal descent and presentation, dystocia set in fast, one of the baby's hands suddenly appeared along side its head. Dr. Bernhardt could not turn the baby manually, hemorrhage started, which he could not stop. All the time, Dr. Bernhardt was facing the draped mother's perineum while the others, with the father, were at her head area. They could not see Dr. Bernhardt, but he was suturing, the others could only see her facial grimace in pain. Earlier, Dr. Bernhardt had strapped a Trielene mask to one of the mother's wrists for self induction for pain control, but it was not working. Dr. Bernhardt asked an assistant to call for an emergency vehicle, as a rapid source for oxygen, for the mother's use. In a few minutes a fireman was administering oxygen to the mother, while Dr. Bernhardt continued his work, shielded by the drape. Suddenly the fireman called for an ambulance, as the mother went into shock. Before the ambulance arrived, she expired. The ambulance then took her body to the Country Hospital morgue for an autopsy, as she was not under the care of a physician, although chiropractors can by law sign death certificates. It was the firemen who insisted to the ambulance driver, and he obeyed.*

The following autopsy report was sent to the District Attorney -

> *Patient died from - 1) fifteen sutures in four tears in the vaginal walls, an induced episiotomy, 2) no evidence of cardiac or pulmonary emboli, 3) death due to excessive hemorrhage from the vaginal tears (38).*

The District Attorney charged all 5 D.C.'s with conspiracy to practice medicine without a license, and manslaughter. The Superior Court jury found all 5 guilty as charged; they all appealed. On November 23, 1963, the Appellate Court reversed the trial court's verdict on all defendants, and barred a retrial (38).

Again, this case received little if any attention within the chiropractic community, outside of Los Angeles County. The outcome of the second trial did not please the District Attorney.

SECOND: The Phillips' case - On July 12, 1961, an eight year old girl was taken to the University of California, at Los Angeles Medical Center for an examination of her left eye. A sudden enlargement behind the upper lid became noticeable to the mother and sharp pains in the eye and surrounding head area occurred. As part of the examination, a biopsy was taken of the left upper eye. Immediate diagnosis - *embryonal rhabdomyosarcoma.* Following a full pediatric physical work-up, she was found to be otherwise healthy. Recommendation - immediate surgical removal of the left eye, in an attempt to save her life, a point never expressed to the parents.

Stunned, the parents could not make up their minds on the spot; they wanted to go home and think about the event. On July 21st, the mother called the Medical Center, asking for a surgical consultation. On that day, in the hospital reception room, the mother got acquainted with another lady, who in conversation mentioned her son had a brain tumor and was cured without surgery. Excited to know more, the lady gave the mother the name of the doctor she had taken her son to - Marvin Phillips, D.C., in North Hollywood. The parents picked up their daughter, departed for home to call Dr. Phillips. Over the phone, the mother explained what had happened at the U.C.L.A. Medical Center, and asked if he could help her daughter. The mother was assured he could help the eye problem, and a tentative program was outlined over the phone, explaining the products he would give her and approximate dosage and costs (39).

The mother, against medical advice at the hospital, took her child out from under medical care and brought the child to Dr. Phillips for care. Dr. Phillips explained he would require $500 in advance, and $200-$300 more for the nutritional supplements he would provide (39).

The next day, office care began with multivitamins/minerals, other food supplements, a laxative of desiccated ox bile, cytrotrophic extract of beef eyes all at 124/day, 150 drops of an iodine solution (dulse) every hour for 11 hours/day, plus daily spinal adjustments. For home care - every other day an enema with 2 quarts of warm water, until the outflow liquid was clear; at bed time, deep thumb pressure massage movements on the balls of her feet; so hard, it made the child cry (39).

By August 13th, the small tumor above the left eye had expanded, the eye ball was now about the size of a tennis ball, and resting on the side of her face below the orbit, next to the nose. One witness would later say, "the eye tumor looked like a boiled fish eye." She was by now too weak to go to Dr. Phillips' office for care, so the mother discharged him (39).

On September 1st, believing only a miracle could save her daughter, the mother called in a Christian Science practitioner to come to the home. And, from some other source, not specified, a Mexican herb, Yerba Mansa, was given for 2 weeks; the tumor kept expanding. On December 20th, someone prompted the mother to call the District Attorney's Office and recite what had happened to her daughter. The Office sent their Deputy District Attorney, chief of the Medical-legal Section, John W. Miner, who visited with the family and talked to the daughter. Later, Mr. Miner would explain that this was the most grotesque tumor he had ever seen, now almost half the size of the child's head, just lying upon her left cheek-chin. After talking briefly with the child, Mr. Miner told her he would be on the TV, in a special program in January, then he would return to see her again. On December 29th, the little girl died; she would have been nine on February 8th (39).

"Tragic as it was, her death," writes Miner, "was not in vain; for from it would come an unique lawsuit in which the jury would find Dr. Phillips guilty of second degree murder, because of his words alone" (39).

In People v. Phillips, Superior Court, No 255480, on August 13, 1962, the defense team of Attorney Melvin Belli and Samuel Brody faced off with the People and their legal team - John W. Miner, before Judge Mark Brandler. On September 4th, the Judge read the verdict - guilty as charged of second degree murder. Dr. Phillips was sentenced to five years to life in state prison for this felony (39). He was the only health care provider in the history of California jurisprudence to ever be so convicted to that time (39).

THIRD: The CREES case - Later in 1961, Dr. Montenegro in CREES and 7 co-plaintiffs filed an injunction against the Board of Medical Examiners, et al, and the Board of Chiropractic Examiners with only Drs. Homer York and Richard Kuxhaus, the two 'straight' members on that board, opposing the aims of CREES. The injunction petitioned the Superior Court to grant broader powers and scope to chiropractic practice, with items such as minor surgical procedures, the use of needles/syringes for injectable medications to patients, and full birthing rights, even after the earlier arrest of Dr. Bernhardt, et al (38). Again, it appeared Dr. Montenegro was ignoring Section 2141 of the Medical Act and the 'case-law' decisions already on the books. This trial court denied the injunction and specified the 26 prior Appellate/Supreme Court decisions, which now defined the chiropractic scope of practice, regardless of the Initiative Act (31, a-z).

Dr. Montenegro, et al, in CREES decided to appeal the decision. However, many colleagues statewide urged them not to proceed, since if they lost in Appellate Court, the decision would then be binding upon all D.C.'s statewide, rather than only those D.C.'s in Los Angeles County. CREES, et al, ignored their brethren's plea and proceeded. On March 21st, the Appellate Court affirmed the trial courts decision, making new case-law, affecting every D.C. (40). And, this court issued nine decrees directly dealing with chiropractic scope of practice hence forward -

A) *That an actual controversy exists between plaintiffs and defendants, relating to their respective*

legal duties and rights.

B) Section 2141 of the Business & Professions Code applies to plaintiff doctors of chiropractic and is not unconstitutional when applied to any of them.

C) Persons holding valid, unrevoked licenses from the Board of Chiropractic Examiners can be prosecuted under the State Medical Practice Act for violations thereof.

...

E) Licensed chiropractors are not authorized by their licenses to use any drugs or medicines in materia medica or the dangerous or hypnotic drugs mentioned in Section 4211 of the Business & Professions Code or the narcotics referred to in Section 11500 of the Health & Safety Code for: 1) diagnosis, 2) as an aid in the practice of chiropractic, 3) for emergencies, or 4) for clinical research.

...

G) Licensed chiropractors are not authorized by their licenses to practice obstetrics or sever the umbilical cord in any child birth, or to perform episiotomy.

H) A duly licensed chiropractor may only practice or attempt to practice or hold himself out as practicing a system of treatment by manipulation of the joints of the human body, by manipulation of anatomical displacements, articulations of the spinal column, including its vertebrae and cord, and he may use all necessary mechanical, hygienic and sanitary measures incident to the care of the body in connection with said system of treatment, but not fur the purpose of treatment, and not including measures as would constitute the practice of medicine, surgery, osteopathy, dentistry, or optometry, and without the use of any drug or medicine included in materia medica.

A duly licensed chiropractor may make use of - light, air, water, rest, heat, diet, exercise, massage and physical culture, but only in connection with and incident to the practice of chiropractic as herein above set forth (40, p.624).

I) It is true that chiropractic is not a static system of healing and that it may advance and change in technique, teaching, learning, and mode of treatment within the limits of chiropractic as set forth in paragraph H above. It may not advance into the field of medicine, surgery, osteopathy, dentistry or optometry.

J) Plaintiffs have failed to state sufficient to constitute a cause of action for injunction against defendants.

K) None of the plaintiffs are entitled to any injunctive relief against any of the defendants; defendants and their agents may proceed against plaintiffs in the event that plaintiffs exceed the scope of their respective licenses to practice chiropractic and violate the Medical Practice Act (40, p.625).

As part of this appeal, the California Chiropractic Association (CCA) was allowed to submit an *'amicus curiae'* (friend of the court) opinion, which buttressed CREES's petition (40). Now the CCA had to think fast and reassess its stand. They did so under new leadership, as other events were soon to unfold.

New Legislative Moves

Suddenly, without warning, a thunderbolt struck in the 1965 Legislative Session. The medical lobby, all fired up over the trilogy of catastrophes suffered in three Superior Courts recently, search among the new members to the Legislature for the right member to introduce their *'anti-quackery'* bill. On February 17th, freshman Assemblyman, Tom Carrell, from Los Angeles County introduced Assembly Bill 1272 (41). Mr. Carrell's brother was a physician in Los Angeles County, so Mr. Carrell was sympathetic to the medical lobby. AB-1272 was assigned to the Assembly Committee on Criminal Procedure. It proposed amending the 1937 Medical Practice Act, Section 2141 as -

> *To add - <u>punishable by imprisonment in the county jail for not exceeding 1 year or in the state prison for not less than 1 year, or more than 10 years</u>. (41)*
>
> This was not punishment for a misdemeanor, this was for a felony! Humpty-Dumpty, how right you were!

The Chiropractic Response

In the previous five years, the CCA had been rather silent, absent from the legislative scene. They has been active in 1960 gathering voter signatures again for Ballot Proposition 7, to allow two members of the board to be from the same chiropractic school, instead of only one; and to allow the legislature to amend license renewal fees as needed by the board, rather than go through a Legislative Referendum to the Public Ballot. The measure did not pass; reason - very little effort by the profession to educate the public. In the 1963 Legislative Session a Bill passed, affecting all regulatory boards, chiropractic included, and the profession knew nothing about it. Reason: the CCA's office was in Los Angeles, and no one was assigned to work with the paid lobbyist, so no one at CCA ever knew what was going on at the Capitol.

Fortunately, the 1964-65 CCA President, Dr. George F. Parchen, Jr., was one of

but a few who knew what grass-roots political involvement for D.C.'s involved. It was his assemblyman who alerted him to this 'felony' Bill, AB-1272. Dr. Parchen flew from San Diego to Sacramento to see for himself. Immediately he alerted his Executive Committee, and began interviewing a potential lobbyist to take the CCA's account. The following week, President-Elect, Dr. Robert Moore of Oakland, called a special meeting in Sacramento for a select few D.C.'s, this author being one. Dr. Parchen introduced the new Advocate, Mr. Gordon H. Garland, who would be charged to rescue us from AB-1272. The small group also elected from those present the new Chairman for the new Legislative Department of CCA, who would be working with Mr. Garland for the Profession before the Legislature, the Governor's Office and all State Agencies. Assisting, CCA's new legal counsel was Mr. Hugh S. Korford, also of Oakland. The Co-Chairman assigned to work with Mr. Garland was Dr. Robert B. Jackson (32).

On April 8th, AB-1272 was amended in Committee, adding another Section, which read -

> *Section 2141.5 - Any person who, under circumstances or conditions which cause, aggravate, or risk great bodily harm, serious mental or physical illness or death, who willfully practices or attempts to practice or who advertises or holds himself out as practicing any system or mode of treating the sick or afflicted in this state, or who diagnoses, treats, operates for, or prescribes for any ailment, blemish, deformity, disease, disfigurement, disorder, injury, or other mental or physical condition of any person without having at the time of so doing a valid, unrevoked certificate as provided in this chapter, is punishable by imprisonment in the county jail not to exceed 1 year or in the state prison for not less than 1 year or more than 10 years. The remedy provided under this section shall not preclude any other remedy provided by law.*

If passed, this amendment would mean any D.C. practicing *hands only, spine only* would be guilty of a felony; his D.C. license could not be admitted into court as a defense document, showing him to be licensed under some other provision of law! *This was totally unacceptable;* a countermeasure had to be searched for and implemented immediately to defeat this amendment (34).

Several days later, Mr. Koford and Dr. Jackson met in Sacramento with Mr. Garland, to discuss the problem and come up with an action plan. Several hours later, Dr. Jackson met his Assemblyman, Mr. Jerome R. Waldie, Majority Leader, where the four discussed the dilemma. Shortly after, Mr. Waldie took the others to the Legislative Counsel Bureau (staff attorneys for the legislature), where the problem was further discussed. Mr. Waldie left orders with the Bureau that he desired language for a counter-action bill to be introduced. On April 22nd, Mr. Waldie introduced AB-2975, which was assigned to the Assembly Committee on Government Efficiency and Economy, which just happened to be chaired by Mr. Waldie. The bill read -

> *Section 1. Section 2138.5 is added to the Business & Professions Code to read:*
>
> *The license to practice chiropractic authorizes the holder to practice chiropractic under the provisions of the chiropractic act (42).*

The Bill was passed out of Committee with a do pass recommendation to the Floor of the Assembly, where, as Majority Leader, he presented his bill. It passed the Bill over to the Senate for their action. Mr. Garland and Dr. Jackson had more homework to do with the Senate's Committee on Business and Professions before Mr. Waldie's Bill was scheduled to be heard. Mr. Waldie presented his AB-2975, as passed by the Assembly; this Committee likewise passed the bill without amendment, with a *do pass* recommendation. The Senate Floor passed the Bill back to the Assembly, who then presented it to the Governor Pat Brown's Office for his signature (32).

Meantime, the Carrell Bill, AB-1272 was amended four more times, passing both Houses to the Governor's Office after the Waldie Bill. By California Law, the governor has 90 days to sign or veto all passed Bills on his desk. In this case also, two Bills dealing with the same subject, the last one signed would take preference in Law. This gave Mr. Garland and Dr. Jackson a further window of opportunity to get the CCA membership involved in writing letters urging the Governor to only sign AB-2975, and veto AB-1272. Mr. Garland reported seeing over 600 letters so urging the Governor. On August 16, 1965, Governor Brown's legislative Secretary, Mr. Frank Mesple wrote the following letter to Dr. Jackson -

> *Dear Dr. Jackson:*
>
> *Governor Brown has asked me to thank you for your kind words of August 2nd regarding Assembly Bill 1272.*
>
> *It was the Governor's feeling that this bill would have made it a felony for anyone to diagnose, treat or prescribe for any mental or physical condition unless licensed to do so under the Medical Practice Act. The bill would have, therefore, created*

problems that would have been unwarranted to professions, such as Chiropractors.

Rest assured the Governor genuinely appreciates your kind words of support.

Sincerely,

/s/ Signed (44)

Then on august 17th, a second letter to Dr. Jackson from Mr. Mesple -

Dear Dr. Jackson:

Governor Brown has asked me to reply to your communication expressing your opposition of Assembly Bill 1272 (Carrell), which would have made it a felony for anyone to diagnose, treat or prescribe for any mental or physical condition unless licensed to do so under the Medical Practice Act.

The intention of this bill, which was to tighten control of quackery, is laudable. However, the language of the bill would have created an ambiguity of whether licenses of other healing arts would be subject to criminal liability for acts which are lawful in their professions.

While the Governor did not sign this measure, he did express a desire for stronger penalties to drive out unlicensed medical practitioners and stated he would consider such a measure at a future session of the Legislature, if the language is clearly aimed at unlicensed practitioners and would not subject licensed healing arts to criminal liability for acts lawful in their professions.

Sincerely,

/s/ Signed (45)

Mr. Mesple also contacted Mr. Garland in person to inform him that Governor Brown had *pocket vetoed* AB-1272. Mr. Waldie was also personally contacted by Mr. Mesple, who in turn asked Dr. Jackson what their wishes were regarding AB-2975, now that the 'felony bill' was no longer a problem. Mr. Waldie was thanked for is efforts and informed he could ask Mr. Mesple to return his passed AB-2975, which occurred (32).

Before the legislative session adjourned, Mr. Garland asked Assemblyman Carrell who contacted him about his Bill, and who proffered the 2141.5 amendment. His response - District Attorney Evelle Younger and his Deputy John Miner and Mr. Ben Reed, lobbyist for the California Medical Association. It was Judge Younger and Mr. Miner who recommended the amendment creating Section 2141.5. We know the genesis for this, the trilogy cases (32).

Now, to Amend the Medical Practice Act

Armed with this information, Dr. Jackson arranged a meeting in Los Angeles, in the District Attorney's Office for May 5, 1966, a Budget Session year where no bill may be introduced; only the Governor can introduce bills. The delegation from the CCA consisted of Mr. Garland as spokesman, Mr. Koford as counsel and Dr. Jackson and from the County Chiropractic Society - Drs. Robert Hastings, Everett Roden and Leonard Savage, the Liaison Committee to the Attorney General's Office. From the DA's staff, Judge Younger himself, Chief Deputy Harold Ackerman and Deputy John Miner (32).

After amenities, Mr. Garland opened by saying - "If the District Attorney desires an *'anti-quackery'* Bill in the future, the only way you'll get it is, if we approve the language. We killed your pet Bill once, we can do it again. It's up to you." Judge Younger responded, "Just work out the details with my staff; we can work together next time for one Bill." (32)

On February 22, 1967, now Senator Tom Carrell introduced the agree-upon language by both sides in Senate Bill 277, for amendments to the Medical

Figure 1. The bill signing ceremony.

Practice Act, designed as *'anti-quackery'* legislation, amending Section 2141 as follows -

> *"...or without being authorized to perform such act pursuant to a certificate obtained in accordance with some other provision of law"* (47).

Section 2141.5 would be the felony section, but with immunity again, "to a certificate obtained by some other provision of law," giving a licensed Doctor of Chiropractic who is licensed (46). The Bill went rapidly through the legislative processes in both Houses, sent to the new Governor, Ronald Reagan, who agreed to sign the Bill into law. Mr. Garland arranged a ceremonial signing, as seen in figure 1. Seated - Governor Reagan, standing from left to right - Dr. Robert B. Jackson, Senator Tom Carrell, Mr. Paul Brown, lobbyist for the Medical Association, Mr. Gordon H. Garland and Mr. John Miner from the Los Angeles District Attorney's Office. Dr. Jackson made sure this picture and story had a wide broadcast within the chiropractic community, both in-state and nationally (32).

Conclusion

Now, back to the Phillips' case. On May 23, 1966, the entire law firm of Melvin Belli headed an appeal team for Dr. Phillips, who was incarcerated in state prison, before the State Supreme Court, urging that the trial Judge erred in his instructions to the jury, which lead to the conviction of Dr. Phillips. They argued Dr. Phillips' only crime was of fraud, not for the death of the little girl, as the medical testimony tried to demonstrate. Medical testimony proffered by the defense related that even if the eye had been removed in the beginning, it would be no guarantee her life would not have been in jeopardy within months. The high court reversed the trial court verdict; Dr. Phillips was released from prison after serving three and a half years (47). Guess who the People's legal team was - District Attorney Evelle Younger with five associates and Mr. John Miner. One error Melvin Belli made was, he failed to ask for a denial of further trials, so *The People,* with the same legal team, took the case before the State Appellate Court for a new trial. Finally, after many delays in getting started, the Appellate Court ruled Dr. Phillips was guilty of second degree murder on March 5, 1969. No provision was made for further incarceration, but John Miner got his conviction of second degree murder (48).

Since 1967, the California Medical Practice Act has been revised, re-amended several times, but the 1967 language put there by the efforts of the California Chiropractic Association still remain. There are now new Section numbers; 2141 is now Section 2052, Section 2141.5 now Section 2053, but the provision of being licensed by some other provision of law still remains (49).

Humpty-Dumpty, how right you are!

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